

STATE OF NEW JERSEY

***Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us***

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF
TKR CABLE COMPANY/TRI-SYSTEM
FOR A RENEWAL CERTIFICATE OF
APPROVAL FOR THE TOWNSHIP OF
PISCATAWAY, MIDDLESEX COUNTY,
STATE OF NEW JERSEY

**ORDER ADOPTING
INITIAL DECISION/SETTLEMENT
AND RENEWAL
CERTIFICATE OF APPROVAL**

BPU DOCKET NO. CE93090392
OAL DOCKET NO. CTV 6190-94

Meyner & Landis, Newark, New Jersey, by Francis R. Perkins, Esq., for the Petitioner.

Township Attorney, Township of Piscataway, New Jersey, by James F. Clarkin, III, for the Township.

BY THE BOARD¹:

On May 19, 1978, the Board granted Cross Country Cable LTD. ("Cross Country"), a Certificate of Approval in Docket No. 7712C-6343, for the construction, operation and maintenance of a cable television system in the Township of Piscataway ("Township"). On February 5, 1982, the Board approved the transfer of the Certificate from Cross Country to TKR Cable Company ("TKR") in Docket No. 8112C-6860. On April 2, 1997, subsequent to filing of the petition for Renewal Certificate of Approval, the Certificate was transferred to TCI Atlantic, Inc. d/b/a TKR Cable Company ("TCI") in Docket No. CM96040359. On December 17, 1997, the Certificate was again transferred from TCI to CSC TKR, Inc. d/b/a Cablevision of Raritan Valley ("Petitioner") in Docket No. CF97090674. Cablevision is required to fulfill any obligations agreed to within the settlement outlined herein. Although the Petitioner's Certificate expired on May 19, 1993, it is authorized to continue to provide cable television service to the Township pursuant to N.J.S.A. 48:5A-25.

¹ Commissioner Carol J. Murphy did not participate in the deliberations or vote on this matter.

The Petitioner filed an application for the renewal of its municipal consent with the Township on August 12, 1992, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. On December 29, 1992, the Township, after public hearing, adopted a resolution indicating its intention to grant renewal municipal consent to the Petitioner and setting forth its underlying reasons. On August 17, 1993, the Township adopted a municipal ordinance granting renewal consent to the Petitioner for a term of three years.

On September 17, 1993, pursuant to N.J.S.A. 48:5A-17(d), Petitioner filed with the Board for a renewal of its Certificate of Approval for the Township. The Petitioner alleged that the Township's actions in granting only a three-year renewal term were arbitrary and capricious. The Township filed an answer to the petition on October 7, 1993. The staff of the Office of Cable Television held a pretransmittal settlement conference on March 21, 1994, but the parties were unable to reach an agreement.

On June 23, 1994, the Board transmitted the matter to the Office of Administrative Law ("OAL") for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. On June 19, 1996, Administrative Law Judge ("ALJ") Bruce R. Campbell consolidated this matter with the renewal petitions for the Township of North Brunswick (Docket No. CE94100472) and the Borough of Sayreville (Docket No. CE94040117) and the City of New Brunswick (Docket No. CE94120570). A series of evidentiary hearings was held before ALJ Campbell. Subsequently, the Borough of Sayreville and the Petitioner settled, and an Order Adopting Initial Decision/Settlement Including an Order of Severance and Renewal Certificate of Approval was issued for the Borough of Sayreville on November 6, 1996. Subsequently, the Township of North Brunswick and the Petitioner settled, and an Order Adopting Initial Decision/Settlement Including an Order of Severance and Renewal Certificate of Approval was issued for the Township of North Brunswick on March 31, 1999. An Initial Decision Settlement for the City of New Brunswick was issued on May 13, 2002.

On December 13, 1996, the Petitioner filed a motion seeking Interlocutory Review on two oral rulings of December 5, 1996 by ALJ Campbell that excluded introduction of testimony or evidence relating to events occurring subsequent to ordinance adoption. The matter was remanded to the Board for decision on the motion. On January 13, 1997, the Township filed written arguments. On March 4, 1997, the Board issued an Order on Motion for Interlocutory Review agreeing with ALJ Campbell and denying the Petitioner's motion.

Subsequent to the issuance of the Order on Motion for Interlocutory Review being issued, the Office of Cable Television held three settlement conferences in an attempt to settle the matter, and eventually, this matter was remanded to the OAL for continued hearing. However, on September 20, 2001, the Township and the Petitioner concluded negotiations culminating in the adoption of a municipal ordinance granting renewal consent to the Petitioner. The ordinance was granted for a term of ten years from the date of issuance of the Renewal Certificate issued by the Board. The Petitioner indicated its acceptance of the ordinance by letter dated October 16, 2001. The settlement was forwarded to ALJ Campbell on May 1, 2002.

ALJ Campbell issued an Initial Decision dated May 13, 2002 recommending that the Board approve the settlement. In his Initial Decision, ALJ Campbell found that the parties adopted the amended ordinance as settlement and that the settlement disposed of all the issues as required by N.J.A.C. 1:1-19.1.

The Board has reviewed the Initial Decision of ALJ Campbell and FINDS that it is fair, reasonable and in the public interest. Therefore, the Board HEREBY ADOPTS the Initial Decision and Settlement in their entirety. The terms of the Initial Decision and the amended final ordinance, and the application for renewal municipal consent are incorporated into this Renewal Certificate of Approval as if fully set forth herein.

The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval, and the renewal municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval. Further, the Township reviewed these qualifications in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to 29 and N.J.A.C. 14:18-13.
2. The design and technical specifications of the system will ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete. The system was rebuilt to 750 MHz and activated in 1996.
4. The franchise period as stated in the ordinance is a term of ten years from the date of issuance of this Certificate. The Board finds this period to be of reasonable duration.
5. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
6. Pursuant to N.J.S.A. 48:5A-26(b), the ordinance specifies a complaint officer to receive and act upon complaints filed by subscribers in the Township. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.
7. The Petitioner shall maintain a local area business office or agent for the purpose of receiving, investigating and resolving complaints. The current local office serving this provision is located at 275 Centennial Avenue, in the Township.

8. The franchise fee to be paid to the Township is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Township. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
9. Within six months of the date of issuance of this Certificate, the Petitioner shall extend service at its own cost to residential homes not currently capable of receiving service on South Washington Avenue. The Petitioner may also extend cable service at its own cost to areas of Centennial Avenue and Bakeland Road, provided there is sufficient interest to make the extension of service economically feasible. The Petitioner shall extend its cable system to reach the new municipal building to be constructed on Bakeland Road upon the latter of six months following the issuance of this Certificate or the Township's occupancy of the building. In all other areas, the Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate (Appendix "I"). The minimum homes per mile figure ("HPM") is 25.
10. The Petitioner has agreed to provide public, educational and governmental ("PEG") access channels and facilities in accordance with its renewal application and the final renewal ordinance. The Petitioner shall provide, upon request of the Township, one channel for PEG access programming for the use of the Township. The Petitioner also provides access time on its local origination ("L.O.") channel and provides regular coverage of local community events and activities.
11. Within 90 days of receipt by the Petitioner of the adopted ordinance, the Petitioner shall purchase for the Township \$141,000.00 of PEG access equipment comparable to the items outlined in Exhibit "B" of the Township's ordinance. Any substituted equipment for that required in Exhibit "B" is subject to reasonable consent by the Township. The Petitioner and the Township have confirmed that the equipment was delivered to the Township.
12. The Petitioner shall provide the standard installation and basic service of one outlet, free of charge, to: a) all public schools; b) Parks and Recreation Department; c) the municipal building; d) Public Safety Building; e) Department of Public Works; f) PCTV; g) Youth Center; h) Academy Street Equipment; i) all public libraries including John F. Kennedy Library and Westergard Library; j) Senior Citizens Center; k) Sterling Village; l) North Stelton Fire Co.; m) Possumtown Fire Co.; n) River Road Fire Co.; o) Holmes Marshall Fire Co.; p) Arbor Hose #1; q) New Market Fire Co.; r) River Road Rescue Squad; s) Arbor Rescue Squad; and t) District #2 Fire Comm. Building.

13. The Petitioner has agreed to implement a senior citizens discount in the amount of 10% of basic monthly service to any senior citizen who meets the income and residency requirements of the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program.
14. When high-speed Internet access via cable modem becomes commercially available to residents in the Township, the Petitioner shall provide to the Township, free of charge, one high-speed cable modem and monthly Internet access service, including standard installation, to all state and locally accredited primary and secondary schools and all public libraries in the Township.
15. When high-speed Internet access via cable modem becomes commercially available to residents in the Township, the Petitioner shall provide to the Township, free of charge, one high-speed cable modem and monthly Internet access service, including standard installation, to City Hall. The Township shall be permitted to network up to three additional personal computer terminals at its own cost.
16. Upon request of the Township, and no more often than twice during the term of the franchise, the Petitioner shall conduct a customer survey of the subscribers in the Township, the purpose of which is to gauge customer satisfaction with the Petitioner's operations. The Petitioner shall provide the results of the survey within two months of its completion. In the event the Township requests that both surveys be done, the second survey shall be made no sooner than three years subsequent to the completion of the initial survey.

Based upon these findings, the Board HEREBY CONCLUDES that pursuant to N.J.S.A. 48:5A-17(a) and 28(c), the Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Township.

The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof, shall be incorporated into this Certificate. Additionally and more specifically, the Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire ten years from the date of its issuance.

DATED: June 26, 2002

BOARD OF PUBLIC UTILITIES
BY:

(signed)

JEANNE M. FOX
PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

(signed)

CONNIE O. HUGHES
COMMISSIONER

ATTEST:

(signed)

KRISTI IZZO
SECRETARY